# STATE OF MICHIGAN

# COURT OF APPEALS

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| PEOPLE OF THE STATE OF MICHIGAN,<br><br>Plaintiff-Appellee, | UNPUBLISHED<br>March 1, 2007 |
| v | No. 263754<br>Wayne Circuit Court |
| LADON ANTHONY HAMPTON,<br><br>Defendant-Appellant. | LC No. 05-001587-01 |

Before: Saad, P.J., and Cavanagh and Schuette, JJ.

PER CURIAM.

Defendant appeals his bench trial conviction of larceny from a person, MCL 750.357. We affirm.

The victim is defendant's brother, Dushon Hampton. Dushon testified that, as he walked down a street in August 2004, defendant jumped out of a car and began to swing a two-foot long stick at him. Dushon further testified that, as he attempted to deflect the blows from defendant, another man, Jerome, alighted from the car and pointed a gun at him. According to Dushon, defendant and Jerome grabbed his gym bag and he specifically recalled seeing the gym bag in defendant's hand. Another witness testified that, later, defendant admitted that he was in possession of the victim's gym bag and its contents.

Defendant took the stand in his own defense and testified that, on the day of the incident, Dushon ran up to his car and hit a female passenger. Defendant further testified that Dushon then pulled out a sword and began to fight with defendant. According to defendant, he did not steal Dushon's gym bag and it remains in Dushon's possession.

The prosecution charged defendant with armed robbery, MCL 750.529, but the trial court found defendant guilty of the lesser included offense of larceny from a person, MCL 750.357.[1] "The elements of larceny from a person are (1) the taking of someone else's property without consent, (2) movement of the property, (3) with the intent to steal or permanently deprive the owner of the property, and (4) the property was taken from the person or from the person's

[1] The trial judge specifically ruled that he doubted that the stick wielded by defendant was a "dangerous weapon" under the armed robbery statute.

immediate area of control or immediate presence." *People v Perkins*, 262 Mich App 267, 271-272; 686 NW2d 237 (2004).

Defendant contends that the trial court made insufficient findings of fact to support his conviction. As this Court explained in *People v Kemp*, 202 Mich App 318, 322; 508 NW2d 184 (1993):

> When the right to a trial by jury has been waived by a defendant, the trial court, sitting as factfinder, must make specific findings of fact and state its conclusions of law. MCR 6.403; *People v Jackson*, 390 Mich 621, 627; 212 NW2d 918 (1973); *People v Legg*, 197 Mich App 131, 134; 494 NW2d 797 (1992). Factual findings are sufficient as long as it appears that the trial court was aware of the issues and correctly applied the law. *Id.*

Contrary to defendant's assertion, the trial court specifically set forth its findings of fact and conclusions of law in a detailed ruling from the bench.

Though he couches his remaining arguments as claims related to the weight and sufficiency of the evidence, the crux of defendant's contention is that the trial court should not have believed the victim's version of events. Specifically, defendant now asserts that Jerome stole Dushon's bag, not defendant. This is contrary to defendant's position at trial where he maintained that Dushon's bag was never stolen by anyone. However, we also note that Dushon unequivocally testified that defendant grabbed his gym bag and another witness testified that, later, defendant admitted that he was in possession of the bag and its contents.[2]

Defendant also complains that, immediately after the incident, Dushon failed to tell the police that defendant was involved in the crime. This contention is not supported by the record. Though Dushon admitted that he did not tell the police officers every detail about defendant's conduct during the crime, Dushon testified that he told police that defendant was involved in the larceny and that defendant assaulted him. This was consistent with the victim's recollection of the events at trial. Moreover, it was for the factfinder to determine the credibility of the witnesses and to weigh their testimony in light of any alleged inconsistencies and we will not second guess that determination on appeal. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992).[3]

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[2] Without citation or analysis, defendant complains that the trial court should have considered whether to convict him of the lesser charge of receiving and concealing stolen property, MCL 750.535. However, the trial court specifically considered whether defendant participated in the theft of Dushon's property and concluded that he did so. Accordingly, the lesser charge does not apply to defendant's conduct.

[3] Defendant maintains that Dushon had martial arts training and, therefore, it is implausible that he would not have fought off his attackers. This, again, is an issue for the factfinder, *Wolfe*, *supra* at 415-416, though we observe that the question whether Dushon should have acted in self defense is wholly irrelevant, particularly in light of evidence that defendant assaulted Dushon with a stick as Jerome pointed a gun at his head.

Defendant further claims that the trial court failed to take into account that, if he stole the gym bag, he was simply recapturing items that belonged to him. Not only is this theory contrary to the testimony of Dushon and the other trial witness, defendant himself never testified that he was merely attempting to retrieve his property. Again, defendant took the position at trial that he did not take anything from Dushon and no record evidence suggests that defendant had a claim to any of the property in Dushon's bag.

In sum, the trial court believed the version of events offered by the victim at trial and, on appeal, we "defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses." *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

Affirmed.

/s/ Henry William Saad
/s/ Mark J. Cavanagh
/s/ Bill Schuette